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OFFICE OF PETITIONS

In re Application of :
George A. Durden et al :
Application No. 09/752,267 :
Filed: December 29, 2000 :
Attorney Docket No. 36968/198825 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 18, 2004, to revive the above-identified application.

The petition is **DISMISSED AS MOOT** for the reasons stated below.

A review of the file record disclosures that a Notice To File Missing Parts of Nonprovisional Application (Notice) was mailed February 14, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. A signed oath or declaration and surcharge were received in the U.S. Patent and Trademark Office on March 12, 2001. Therefore, since this case was not in fact abandoned at the time of filing the instant petition, the petition to revive was prematurely filed and is dismissed as involving a moot issue.

Since this application was not abandoned at the time of filing of the petition to revive, as explained above, the petition to revive fee \$1,370.00 is unnecessary, petitioner may request a refund of this fee by writing to: Mail Stop 16, Director of the US Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center 2614 for examination in due course.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy